

The Applicants thank Examiners Walicka and Prouty for the courteous and helpful interview of May 6, 2003. The Examiners agreed to withdraw the enablement rejection, as undue experimentation would not be required to determine suitable zinc tolerant host cells. It was indicated, based on the sequence search, that SEQ ID NO: 1 was free of the prior art. Moreover, the Examiners agree to consider claims directed to sequences that were similar to SEQ ID NO: 1 if they specified the source and function of the recited gene sequence along with a structural limitation that was described in the specification or figures, e.g., a particular sequence of restrictions sites. Accordingly, the independent claims have now been amended to refer to the source (*Alcaligenes*), function (encodes D-aminoacylase) and structure (a particular restriction site sequence) of the recited D-aminoacylase genes. Favorable consideration is respectfully requested.

#### Sequence Listing

The Applicants submit herewith a substitute Sequence Listing and corresponding computer readable form (CRF) that revises the prior sequence listing to refer to the nucleotide sequence described on page 5, second line from bottom, of the specification. No new matter has been added. The attached paper copy of the substitute Sequence Listing and the computer readable form are identical.

#### Objection—Specification

The specification was objected to as not being in proper idiomatic English. The Applicants respectfully submit that the specification adequately and clearly describes the invention. However, the specification is being reviewed in order to further improve its clarity and a substitute specification will be filed, if necessary, to clarify any portions of specific concern to the Examiner.

### Objection—Claims

Claims 4 and 11 were objected to. These objections are moot in view of the cancellation of these claims.

### Drawings

The Applicants thank the Examiner for indicating that the informal drawings of record are acceptable for examination purposes. Formal drawings are attached to this response.

### Rejection—35 U.S.C. 112, second paragraph

Claims 1-13 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. These rejections are moot in view of the cancellation of these claims. The term “enhanced” as used in independent Claim 14 refers to an increase in the expression of the gene or amount of D-aminoacylase expressed in the presence of zinc ion, as compared to cells grown in the absence of zinc ion. Spec?

### Rejection—35 U.S.C. 112, first paragraph

Claims 1-13 were rejected under 35 U.S.C. 112, first paragraph, as lacking adequate description. These rejections are moot in view of the cancellation of these claims.

### Rejection—35 U.S.C. 112, first paragraph

Claims 1-13 were rejected under 35 U.S.C. 112, first paragraph as lacking adequate enablement. These rejections are moot in view of the cancellation of these claims.

Moreover, as discussed in the interview, the Applicants thank the Examiner for indicating that one with skill in the art would have been enabled to select an appropriate zinc-resistant cell line based on the disclosure, e.g., page 6, starting at line 10, and in view of the

exemplification of such microorganisms. Accordingly, the Applicants respectfully submit that this rejection would not apply to the new claims.

CONCLUSION

In view of the above amendments and remarks, the Applicants respectfully submit that this application is now in condition for allowance. Early notification to that effect is earnestly solicited.

Respectfully submitted,

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MARKED-UP COPY OF AMENDMENT

IN THE CLAIMS

Claims 14-34. (New)